

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
John N. De La Vergne) Group Art Unit: Unassigned
Application No.: 09/773,524) Examiner: Unassigned
Filed: February 2, 2001) Date: May 11, 2007
For: METHOD AND APPARATUS FOR)
UTILIZING THE FULL CAPACITY)
OF A PARTICULAR OF MINE)
HOIST FOR EXCAVATING DEEP)
SHAFTS)

RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully petitions the Commissioner to revive the above-identified application that became unintentionally abandoned on May 14, 2001, for failure to timely respond to the outstanding Notice of Missing Parts. Applicant's representative thanks the Petitions Examiner for providing a copy of the Notice of Missing Parts and a copy of the Notice of Abandonment along with the March 23, 2007 Decision on Petition. This paper is being timely filed in response to the March 23, 2007 Decision dismissing the September 18, 2006 petition.

Applicant respectfully submits that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional, for the reasons discussed in September 18, 2006 Petition for Revival (copy

attached).

FACTS

- I. Applicant is in receipt of the March 23, 2007 Decision dismissing the September 18, 2006 petition (copy attached).
 1. The required reply to the March 13, 2001 Notice of Missing Parts of NonProvisional Application and a copy of the Notice are attached.
 2. Authorization for the payment of the petition fee and any other required fees is stated below.
 3. The required statement that the delay in responding is unintentional is stated above.

RELIEF REQUESTED

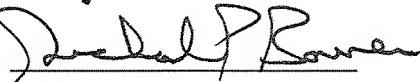
Applicant respectfully requests that the subject application be revived and that the Response to the Notice of Missing Parts be forwarded to the Office of Initial Patent Examination.

FEE

The Commissioner is authorized to charge the \$65.00 fee required by the Notice of Missing Parts, the \$65.00 fee for filing a terminal disclaimer for a small entity, and the \$750.00 petition fee for a Small Entity to Deposit Account Number 50-1710. The Commissioner is also authorized to charge any additional fees deemed necessary to successfully revive this application, and to further maintain its pendency under 37 CFR §§ 1.116 and 1.117 (or credit any overpayments), to Deposit Account Number 50-1710.

Should there be any questions, the undersigned can be contacted in our Washington, D.C. office at telephone number (202) 625-3500. All correspondence should be sent to the address given below.

Respectfully submitted,
KATTEN MUCHIN ROSENMAN LLP

By: 
Richard P. Bauer
Attorney for Applicant
Reg. Number 31,588

Patent Administrator
KATTEN MUCHIN ROSENMAN LLP
East Lobby, Suite 700
1025 Thomas Jefferson Street, N.W.
Washington, D.C. 20007
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UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKETED

Action Type Request for Reconsideration
Due/Final Date 05/23/07
Atty JSP Sec
Docketed by CRL Date 05/27/07

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON, DC 20007-5201

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IP Department
Record's Center

MAR 23 2007

OFFICE OF PETITIONS

In re Application of :
John N. Vergne :
Application No. 09/773,524 :
Filed: February 2, 2001 :
Attorney Docket No. 216224.00043 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed March 13, 2001. Since no response was filed a Notice of Abandonment was mailed on October 23, 2003. On September 18, 2006, the present petition was filed, wherein petitioner states that the notices mailed March 13, 2001 and October 23, 2003 were not received because they were mailed to an incorrect correspondence address. Petitioner explains that the wrong Customer Number was provided on filing. A Change of Correspondence Address identifying the correct Customer Number accompanies the petition.

A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

Accordingly, the petition is **DISMISSED**.

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The correspondence address has been changed as requested. For applicant's convenience, a copy of the Notices mailed March 13, 2001 and October 23, 2003 are enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
John N. Vergne) Group Art Unit: Unassigned
Application No.: 09/773,524) Examiner: Unassigned
Filed: February 2, 2001) Date: September 18, 2006
For: METHOD AND APPARATUS FOR)
UTILIZING THE FULL CAPACITY)
OF A PARTICULAR OF MINE)
HOIST FOR EXCAVATING DEEP)
SHAFTS)

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully petitions the Commissioner to revive the above-identified application that became unintentionally abandoned on May 14, 2001, for failure to timely respond to the outstanding Notice of Missing Parts. Applicant's representative has never received the either the Notice of Missing Parts or the Notice of Abandonment, but was informed on September 15, 2006, by USPTO personnel in the Office of Initial Patent Examination that the application became abandoned on May 14, 2001. Applicant respectfully submits that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional, for the reasons discussed in detail below.

FACTS

1. On February 2, 2001, Applicant filed an application for METHOD AND APPARATUS FOR UTILIZING THE FULL CAPACITY OF A PARTICULAR OF MINE HOIST FOR EXCAVATING DEEP SHAFTS, which has been assigned U.S. Patent Application No. 09/773,524.

2. On September 15, 2006, while reviewing the application, a typographical error was discovered in the Customer Number provided on the Utility Patent Application Transmittal and on the Application Data Sheet. Although the attorney of record and the correspondence address were correctly listed on the Utility Patent Application Transmittal, the Customer Number was incorrectly entered as “21760”. The correct Customer Number is “27160”. For the convenience of the attorney in the Office of Petitions, a copy of a certified copy of the application as filed for U.S. Patent Application No. 09/773,524 is attached.

3. Also, on September 15, 2006, Applicants representative contacted the Office of Initial Patent Examination, by telephone, and was informed that this application became abandoned on May 14, 2001. Applicant’s representative has received neither the Notice of Missing Parts nor the Notice of Abandonment. Because of the typographical error in the Customer Number, Applicant’s representative is unable to view information about this application in Private PAIR, and, of course, since the application was never published, information about this application is not available in Public PAIR.

4. Applicant has received the return receipt postcard which was submitted with the application as filed , and three certified copies of the application as filed, which were requested on December 18, 2001. The postcard bears the original USPTO date stamp indicating receipt of the application on February 2, 2001, and bears a stamp of the assigned Application Number, which is 09/773,524. The postcard contains the correct Firm name and correspondence address.

The certified copy of the application as filed contains the filing date and application number stamped on the first page of the Utility Patent Transmittal.

RELIEF REQUESTED

Applicant respectfully requests that the subject application be revived and that the Notice of Missing Parts be mailed to the correspondence address for Customer number 27160. A change of correspondence address, which requests that the correspondence address be changed to Customer Number 27160, is being filed concurrently with this petition.

FEE

The Commissioner is authorized to charge the \$750.00 petition fee for a Small Entity in accordance with 37 CFR § 1.17(m) to Deposit Account Number 50-1710. The Commissioner is also authorized to charge any additional fees deemed necessary to successfully revive this application, and to further maintain its pendency under 37 CFR §§ 1.116 and 1.117 (or credit any overpayments), to Deposit Account Number 50-1710.

Should there be any questions, the undersigned can be contacted in our Washington, D.C. office at telephone number (202) 625-3500. All correspondence should be sent to the address given below.

Respectfully submitted,
KATTEN MUCHIN ROSENMAN LLP

By:


Richard P. Bauer
Attorney for Applicant
Reg. Number 31,588

Patent Administrator
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Washington, D.C. 2007
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